

CIVIL NO. 1:05CV20

V

Defendant.

The Asheville Division has been the venue for a number of diversity ski cases. Relying on institutional memory, there have been a great number of cases which concerned varying ski conditions, the design of various slopes, and the operations of ski areas, but the court simply cannot recall a motion for expansion of discovery so that an expert could observe a slope covered with snow. Further, the court has closely read the Complaint and it appears that plaintiff's key contention is that defendant provided Ms. Bogan with a tube

that was too large, thereby preventing her from braking with her feet, causing her to collide with a berm of packed snow. Waiting for snow would appear to add little to the investigation of this accident, an investigation that should have been commenced well before the Complaint was filed.

Trial is set for April 2006, which is already four months beyond the time usually allowed for trial in the Asheville Division, and comes at the end of the 2006 ski season. After consulting with the district court, the motion will be denied and all previously set deadlines will remain in force.

Inasmuch as counsel for defendant does not oppose such motion, respective counsel are referenced to the provisions of the Pretrial Order which allow for the taking of consensual discovery up to 10 days before trial, and Rule 29, Federal Rules of Civil Procedure, which allow the parties to stipulate as to certain discovery procedures.

ORDER

IT IS, THEREFORE, ORDERED that plaintiffs' Motion to Modify Pre-Trial Order and Case Management Plan (#11) is **DENIED**.

Signed: August 16, 2005

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

